THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.25794 OF 1995

DATED: 26.9.2006

BETWEEN:

Bipin Kumar Jena … Petitioner.

And

Hindustan Steel Works Constructions Ltd.,
A Govt. of India Undertaking, rep by,
Managing Director, Calcutta
And others.

… Respondents.

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ORDER:

Petitioner is the son of late Sri Basanth Kumar Jena, who was an employee of Hindustan Steel Works Construction Limited, the first respondent herein. As the petitioner's father died while being in employment he sought for employment for himself on compassionate grounds. As the respondents have not provided him with employment, the petitioner moved the Orrisa High Court by way of a writ petition namely O.J.C.No.3106 of 1990. The Orissa High Court by its order dated 7.5.1993 directed the Managing Director and General Manager of the first respondent Company to absorb the petitioner in any job to which he would be found suitable. In obedience to the said order, the petitioner was appointed as unskilled worker purely on temporary basis on daily wages as per minimum wages applicable in the State of Andhra Pradesh under the Minimum Wages Act 1948. The petitioner accordingly accepted the said offer and had been working as unskilled worker.

Not satisfied with the temporary employment provided to the petitioner he moved another writ petition before the Orissa High Court, which, according to the averments in the affidavit of the petitioner in this writ petition, was dismissed by the Orissa High Court on the ground that it lacks territorial jurisdiction. It is in this situation that the present writ petition is filed seeking a writ of certiorari to quash the letter dated 17.4.1995 of the Deputy Manager (Personal), of the first respondent Company wherein the petitioner's claim for regular

employment has been rejected.

The learned counsel for the petitioner contends that the petitioner has completed 240 days of service in a year and hence, he is entitled to regularization. It is further contended that the petitioner is also entitled to regular employment in terms of circular No.Per/Rec/123/94 dated 11.8.1994 issued by the fourth respondent.

I am not impressed by either of the two contentions. As regards the first contention there is no law which says that a temporary employee on completion of 240 days of service is entitled to be absorbed or for regular appointment. In a recent judgment in ***Secretary, State of Karnataka & Others vs Uma Devi and Others***[1] , the Supreme Court deprecated the practice of the Courts giving directions for regularization of temporary appointees on the ground of completion of a particular number of days of service. The first contention therefore, is liable to be rejected. As regards, the second contention based on the circular dated 11.8.1994, though the petitioner, in his affidavit, referred to the circular only to plead that the said circular shows that there are regular vacancies available, he has not pleaded that he satisfies the requirements for regular appointment mentioned in the said circular. It is therefore, evident that the petitioner does not satisfy those requirements. If the petitioner possesses the qualifications mentioned in the said circular, he is not prevented from applying for regular appointment by competing with other qualified persons.

For the aforementioned reasons, the petitioner has not made out any case for granting the relief of regular appointment. However, since a number years have passed by from the time of filing of the writ petition, if the petitioner had already been given a regular appointment, dismissal of this writ petition would not result in denial of the benefit of regular appointment, if already given to the petitioner by the

respondents.

The writ petition is dismissed accordingly.

26.9.2006.

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